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Emotional Intelligence

Presented by:

Jay Chapman
Assistant Phoenix City Prosecutor

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ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL
3838 N. Central Ave., Suite 850
Phoenix, Arizona 85012

ELIZABETH BURTON ORTIZ
EXECUTIVE DIRECTOR

Emotional Intelligence

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City of Phoenix Assistant City Prosecutor
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Why lawyers need to be taught more about emotional intelligence

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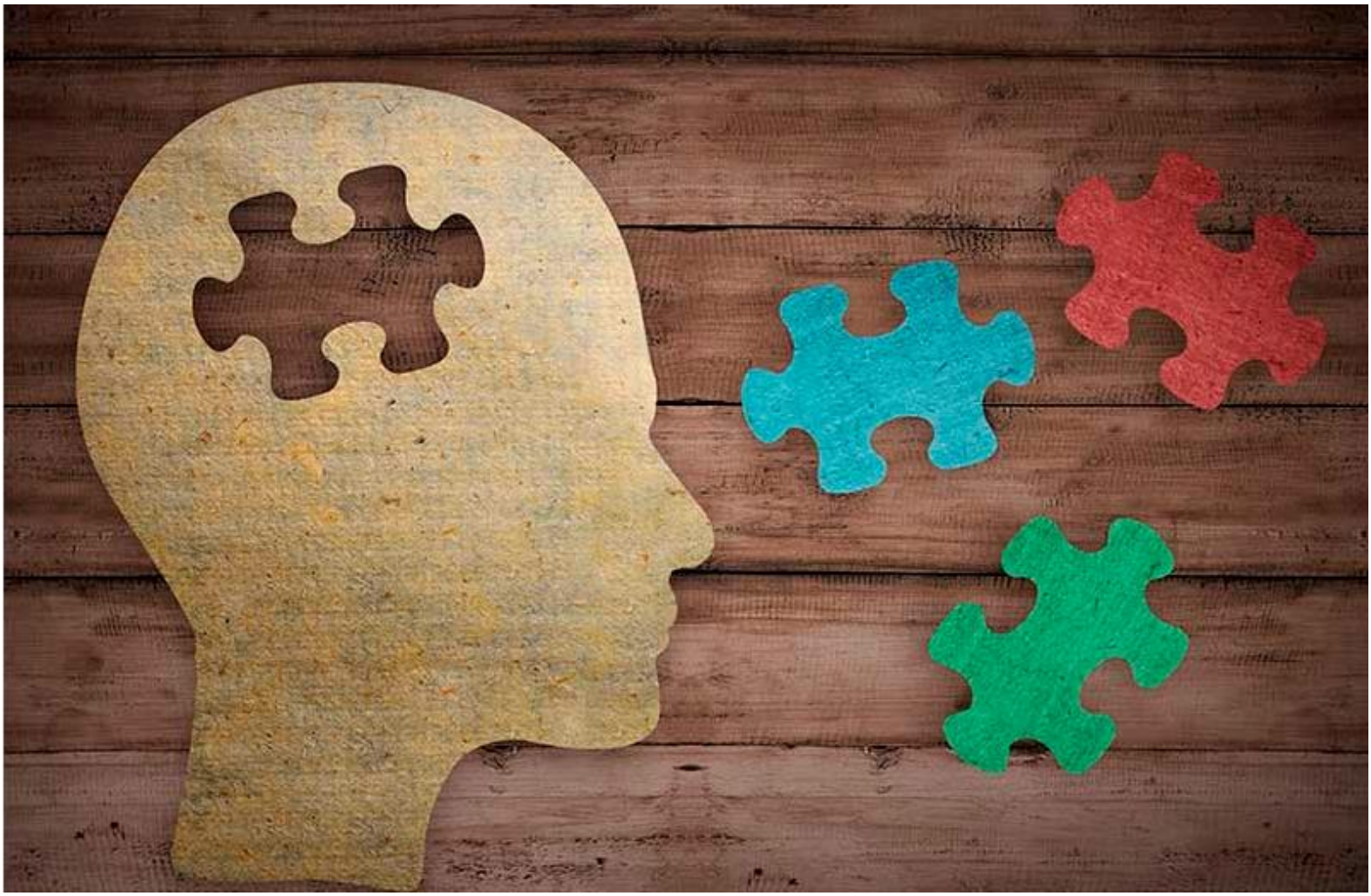

The evidence suggests that emotional intelligence (EI) – the ability to engage with your own and others' emotions – is highly useful for lawyers in numerous ways. Polly Botsford investigates how E can help lawyers and the current degree of interest being taken by law firms and companies in developing lawyers' EI.

If we used to say 'it's not what you know, it's who you know', these days, we might say: 'it's not what you know or who you know: it's how you make people feel.'

When a client calls up their lawyer it is what might be termed an emotional act rather than a well-reasoned one: what the client remembers most is how they felt. David Maister, guru of professional services and author of *The Trusted Adviser*, says that giving advice is 'an emotional "duet"' between the lawyer and the client.

If that is the case, then emotional engagement with a client should be considered a core skill for lawyers. In fact, there is a considerable body of evidence that what is termed emotional intelligence – the ability to engage with your own and others' emotions – can help lawyers in a myriad different ways: in getting clients, in getting on with colleagues and in simply surviving in a stressful job.

Consider a now-famous empirical study by a law professor, Marjorie Shultz, and a psychology professor, Sheldon Zedeck, which came up with 26 factors which, they argued, could predict whether or not an individual would be an 'effective' lawyer. Many of these were 'non-cognitive' factors such as communication, conflict resolution and working with others. These factors require EI.

Research has shown that emotional intelligence pays financial dividends: though there are no extensive studies for law firms or in-house teams in particular, research of a large consulting practice demonstrated that partners who scored higher in EI-related competencies also achieved improved revenue and gross margin. Psychology studies are littered with examples of where EI has shown tangible business benefits.

'EI would help lawyers become better at dealing with other people within the office or with clients, but also in recognising their own feelings'

Mark Hsu, Website Officer of the IBA Young Lawyers' Committee

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The evidence is now so pervasive and persuasive on the miracle benefits of EI that an EI industry has been born, which includes coaching, books, apps, tests, TED talks and lectures. Cynical lawyers may be put off, but they are probably the ones that need it most, since, unfortunately, lawyers have a poor track record in this emotional intelligence. According to personality analysis by psychologists, a typical lawyer is 'likely to be more achievement-oriented, more aggressive, and more competitive than other professionals and people in general'. (Note that this competitiveness is pervasive. It is not competitive about just getting the best results. Rather, this is: 'the desire to win in *interpersonal* situations.') Lawyers prioritise thinking and suppress feeling: they are emotionally 'underdeveloped' as Ronda Muir, author of *Beyond Smart: Lawyering with emotional intelligence*, puts it.

Mark Hsu is the Website Officer of the IBA Young Lawyers' Committee and a partner at Hawkins Parnell & Young in New York. He sees evidence of this and its cost: 'Lawyers in the US are among the most unhappy of the modern professionals. There are a lot of mental health issues, and there is this culture which is grin-and-bear-it and don't talk about it. EI would help lawyers become better at dealing with other people within the office or with clients, but also in recognising their own feelings.'

Emotion versus reason?

As Hsu says, being emotionally intelligent is being in tune with, and managing, your and others' emotions. Examples for a lawyer might be: understanding a client's state of mind to gauge what questions to ask and what information to give (and how to give it). A client who comes across as impatient in a meeting may actually be nervous about a highly-sensitive decision or situation. A colleague who looks offended and brushes off an offer of help may actually be the person who needs your intervention the most but is too afraid to ask. Lawyers may miss emotional cues because they are too focused on the technical issues at stake (and, understandably, concerned about getting the 'right' answer across). Muir tells *In-House Perspective*: 'lawyers often feel that they have to choose between emotion and reason.' This is not the case, as 'someone with emotional intelligence will harness both.'

If we are going to improve the lawyer's experience, whether in-house or in a law firm, and correct this deficit, then firms and companies need to get wise to this. Fortunately, many already are. Kathryn Rousin, Co-Chair of the IBA Academic and Professional Development Committee and Global Learning and Development Director of law firm White & Case, has worked at a number of different international firms over the years. She says that the need for improved EI is 'definitely on the radar' of firms and companies. Muir agrees that some firms have made 'heroic efforts' to improve EI.

EI on the radar

Firms and companies are building EI awareness in different ways: as a leadership and people management issue, as a wellbeing issue or as a client relationship tool (or a combination).

Linklaters sees EI as playing its part in a diversity and inclusion strategy because it can help staff to 'appreciate differences and the best ways of communicating with others'. The Magic Circle firm has had EI elements in place in its learning programme for the last two years, explains Patrick McCann, its Global Head of Learning. 'We run a number of different psychometrics so that staff can understand how they engage with other people and how they are in stress situations,' he says. 'We also have programmes on resilience and how other people might react to you.'

In addition, for a while now, firms and companies have been developing different ideas about what they are looking for in their lawyers of the future. Recruitment has become a less blunt instrument, one less driven by pure academics. McCann describes Linklaters' 'bespoke tests' that explore, among other things, 'a candidate's ability to critically assess a situation rather than applying rules, or how someone reacts to a particular situation; we'll look at divergent thinking.'

Vario is the contract lawyer arm of law firm Pinsent Masons. It places freelance lawyers in-house on short- or longer-term assignments with end clients as well as back within the firm. It takes a certain kind of lawyer to make this type of arrangement successful, argues Matthew Kay, Director of Vario. He tells *In-House Perspective*: 'Contract work, in-house work, it's a world apart from what we might call the ivory towers of private practice. It's not for everyone.' As a result of this, Kay explains how the firm felt they needed to be able to recognise the typical attributes of a lawyer who would be good at freelancing. 'We wanted the depth of knowledge about what is the best fit for this type of work – and it definitely wasn't about someone just being technically proficient,' Kay explains.

Enter the psychologists

Vario decided to go to the experts and commissioned psychologists to build a profile of the perfect freelance lawyer. Key attributes include resilience, being communicative and supportive and being socially confident. On the back of that profile, it now runs a series of tests as part of the recruitment process and an independent report is compiled on each candidate.

Vario has gone as far as using its tests when it matches lawyers with each particular assignment. 'We may have someone who has the right skills and experience for a six-month assignment in-house but there may be a behavioural mismatch,' says Kay. For instance, some environments in-house require a more robust individual, while others might need someone who works well with a lot of structure. The profile is 'frighteningly accurate,' notes Kay.

From her work, Muir believes that in-house law departments have much more of a 'team approach' and those who are most successful in those teams will be 'good at EI'. Because their clients are part of the same business, it is even more crucial that in-house lawyers can build relationships and 'bridge the gap.'

There is still a long way to go here though. Corporate cultures are slow to change, says Rousin. 'The challenge is that senior lawyers do not always fully recognise EI's importance. There are huge pressures on their time; people management is seen as extremely time-consuming even if some key EI skills might make their job easier.' Organisations are also put off by the very terminology or jargon. As Rousin puts it: 'we may not explicitly call it "emotional intelligence" but that is what we focus on.'

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Andrea Kennedy is Vice Chair of the IBA Law Firm Management Talent and Leadership Subcommittee and Director of Business Development at barristers' chambers 11KBW; as an executive coach she has been working with law firms and chambers for a number of years. Kennedy argues that firms are still too focused on their lawyers 'sitting down, churning out the billable hours and making money for the firm.' But she does also believe that there is a turning point, as 'lawyers embrace EI training and encourage its development once they can see that it affects the bottom line.'

Teach them young

Part of the reason why it is so hard to change the culture of companies and law firms is that by the time lawyers get into the workplace, they may already be quite set in their ways. Perhaps, we need to catch them earlier. As Hsu puts it: 'by the time you are in practice, you have developed certain mindsets.' Studies in the 1990s looked at the personality of aspiring law students and found that they were already 'highly focused on academics', and had 'greater needs for dominance and leadership'.[1] If this is the case, then we can and should unpack some of these traits during their educational journey.

Hsu strongly supports this notion that EI should be taught. For example, he says, 'resilience' is a key component of EI but 'you don't have to be born with it. It's a muscle you have to practice. You *can* be taught about it, you *should* be taught about it.' He adds: 'If you're not, it's like going into the wild without any survival skills.'

Muir agrees, noting that, 'at the moment, law students rely almost exclusively on their cognitive skills. We need EI advocates in law schools.' Medical schools have already worked this out, says Muir. 'Studies had shown that emotional intelligence dropped over the lifetime of medical schools. So the schools responded and teach communications with patients and so on.'

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> Ronda Muir, author of Beyond Smart: Lawyering with emotional intelligence

The good news is that this is beginning, slowly, to happen in law too. Lewis Patrick is Co-Chair of the IBA Committee on Academic and Professional Development, and Chief Academic Officer and Deputy CEO at the College of Law in Australia. He says that 'in a post-grad environment, the need for EI training has been taken on board, that movement is definitely growing.' Patrick sees two particular strands in EI thinking that are relevant for law schools. First, is what he calls the 'internal' EI, a student's self-awareness and self-management. The other is external, social awareness of others and relationship management. At his college, both elements form part of its post-grad programme, with a primary focus on the internal element.

The next generation

Luckily, the next generation of lawyers might be better at all this, argues Kennedy. ‘They are prepared to say: “I work really hard, I work long hours, I often do thankless tasks, I deserve some recognition for that”. Of course, the response to that from some law firm leaders is that these are just millennials with a bloated sense of entitlement, plus they get their recognition by being paid well.’ But that is to miss the validity of what the millennials are pointing to, Kennedy says. ‘Firms and companies just get bigger and more impersonal. They pay well and believe that paying better and better is the answer.’ The next generation may be a bit different in that money is no longer the primary motivator and instead they want to be valued for their contribution, believes Kennedy. ‘They’d like some old-fashioned good manners, some personal attention, the kind of culture that flourished when firms were smaller and less impersonal.’

On the other hand, we need to work doubly hard now and in the future because of the ever-increasing stranglehold of tech that has rapidly transformed the way we engage with each other at work. For instance, there’s far less face time. In a corporate world dominated by often awkward and faceless interactions over a conference call, Rousin says that she gives specific training on how to build better relationships in these conditions: ‘I’ve found it necessary to train people on how to build that team spirit and trust virtually. It takes extra time to do that.’ She is excited by telepresence technology which is, she believes, far better at replicating a sense of being in the same room as someone. So perhaps tech will catch up.

If Muir is right and lawyers are emotionally underdeveloped, at least we can say that they are now aware of that fact and that’s probably progress. A focus on feelings looks set to continue.

Note

[1] **https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1406&context=aulr**

Start now: five ways to build emotional intelligence

Accept that you may not be good at EI: There is a test called 'Reading the Mind in the Eye' where you are given 36 sets of eyes and must choose from a set of options which of the feelings those eyes best reflect. Take the test and you will discover that you are not as good as you may have thought on reading people's emotions.

Improve how you read other people's emotional cues: lawyers usually fall down most in this area, says Ronda Muir, author of *Beyond Smart: Lawyering with emotional intelligence*. 'One of the simplest (and entertaining) ways to do this is to watch TV or films, with the sound turned off and just observe characters' body movements. You will become more observant of others in real life.'

Interaction with others: Muir suggests improving your interactions through gentle enquiry and saying the names of emotions: 'when you are in a certain situation, a meeting, a courtroom, and you see someone who is uncomfortable, you can speak to them afterwards. You might say: "did that upset you?" or "you look embarrassed". If you speak the word of an emotion, you calm the waters.'

Managing your own emotions: EI is also about harnessing your own emotions, recognising how you are feeling. For instance, you get an aggressive email from your opponent. You are fuming and bash out what you see as a robust and well-honed response - but it may not be the best way forward. Instead, recognise that anger and, says Muir, 'give yourself a few minutes to let the emotions run through before responding.'

Managing other people's emotions: Mark Hsu, partner at Hawkins Parnell & Young in New York, supports many a junior lawyer in times of high anxiety. One of his tactics is to reassure younger lawyers by sharing his own experiences. He gives an example: 'If someone feels they have screwed up, I tell them that the dread they feel will pass. I've worked nonstop on a case for a year, inspiring panic and cold sweats at random moments, making me think: "That's it: this case will definitely end in disaster, ruining my life." And then being absolutely flabbergasted when, for the life of me, a few months on, I just couldn't even remember the name of the case.'

Polly Botsford is a legal and current affairs journalist and can be contacted at **polly@pollybotsford.com**

Related links

- **Law Firm Management Committee Publications**
- **Book Review: The Psychology of Conflict: Mediating in a Diverse World**
- **Mitigating wellbeing challenges for in-house lawyers**
- **Lawyers as Leaders**

EMOTIONAL INTELLIGENCE SELF-ASSESSMENT CHECKLIST

Rate each question below on a scale of **1 (Virtually Never)** to **5 (Virtually Always)**, according to how true it is of you. (*from The Manager's Guide to Emotional Intelligence, Emily Sterrett, Ph.D.)*

_____ 1. I am aware of the physical reactions (twinges, aches, sudden changes that signal a "gut reaction."

_____ 2. I readily admit mistakes and apologize.

_____ 3. I let go of problems, anger, or hurts from the past and I can move beyond these.

_____ 4. I generally have an accurate idea of how another person perceives me during a particular interaction.

_____ 5. I have several important things in my life that I am enthusiastic about and I let it show.

_____ 6. I can easily meet and initiate conversation with new people when I have to.

_____ 7. I take a break or use another active method of increasing energy when I sense that my energy level is getting low.

_____ 8. I have little trouble taking prudent risks.

_____ 9. I "open up" with people appropriately—not too much but enough so that I don't come across as cold and distant.

_____ 10. I can engage in an interaction with another and pretty well size-up that person's mood based on non-verbal signals.

_____ 11. Others usually feel inspired and encouraged after talking to me.

_____ 12. I have no trouble making presentations in front of groups or conducting meetings.

_____ 13. I take time every day for quiet reflection.

_____ 14. I take initiative and moved ahead on tasks that need to be done.

_____ 15. I refrain from making up my mind and expressing my opinion until after I have all the facts.

_____ 16. I have a number of people I can turn to and I ask for their help when I need it.

_____ 17. I try to find the positive in any given situation.

_____ 18. I can deal calmly, sensitively, and proactively with the emotional displays of others.

_____ 19. I can usually identify the emotion I am feeling in any given moment.

_____ 20. I am generally comfortable in new situations.

_____ 21. I neither bury my anger nor let it explode on others.

_____ 22. I can show empathy and match my feelings with those of another person in an interaction.

_____ 23. I can keep going on a big project, despite obstacles.

_____ 24. I am respected and liked by others, even when they don't agree with me.

_____ 25. I am clear about my goals and values.

_____ 26. I express my views honestly and thoughtfully, without being pushy.

_____ 27. I am good at managing my moods and I seldom bring negative emotions to work.

_____ 28. I focus my full attention on another person when I listen to them.

_____ 29. I believe the work I do day-to-day has meaning and value in society.

_____ 30. I can effectively persuade others to adopt my point of view without coercing them.

SCORING THE SELF-ASSESSMENT CHECKLIST

1. Carefully enter your ratings for each numbered question in the category where the number appears.
2. Add the ratings for each category to obtain a total for that specific facet of Emotional Intelligence.

Self-Awareness: ***1*** _____ ***7*** _____ ***13*** _____ ***19*** _____ ***25*** _____ ***Total Self-Awareness:*** _____	***Empathy:*** ***4*** _____ ***10*** _____ ***16*** _____ ***22*** _____ ***28*** _____ ***Total Empathy:*** _____
Self-Regulation: ***3*** _____ ***9*** _____ ***15*** _____ ***21*** _____ ***27*** _____ ***Total Self-Regulation:*** _____	***Social Competency / Effective Relationships:*** ***6*** _____ ***12*** _____ ***18*** _____ ***24*** _____ ***30*** _____ ***Total Effective Relationships:*** _____
Self-Motivation: ***5*** _____ ***11*** _____ ***17*** _____ ***23*** _____ ***29*** _____ ***Total Self-Motivation:*** _____	***Self-Confidence:*** ***2*** _____ ***8*** _____ ***14*** _____ ***20*** _____ ***26*** _____ ***Total Self-Confidence:*** _____

Emotional Intelligence Questions:

How can I practice emotional intelligence at work to be more effective?

How can I practice emotional intelligence at home to be more effective?

What emotional intelligence competencies are my strengths?

What emotional intelligence competencies are my weaknesses?

1. Self-Awareness:

   What emotions do I feel most regularly?

   What are my emotional triggers?

   What is the message of the emotion?

2. Self-Management:

   What questions can I use to focus my attention on what I have control over?

   How can I consciously choose to use priming and self-talk to influence my thoughts & emotions?

   How would changing sleep, eating, exercise, social, and breathing habits to positively impact my emotions?

3. Social Awareness:

    How can I become more aware of the emotions of the person I am interacting with?

    How can I become a better listener?

    Am I paying attention to micro-expressions?

4. Effective Relationships:

    How can I connect with the person in front of me?

    Do I allow people I work with to negatively influence me?

    How can I positively influence people I work with?